

AMENDED IN SENATE JUNE 23, 2009

AMENDED IN ASSEMBLY APRIL 22, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1386

Introduced by Assembly Member Hayashi

February 27, 2009

An act to amend Sections 14528.5 and 14528.55 of the Government Code, and to amend Sections 392, 485, and 538 of the Streets and Highways Code, relating to transportation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1386, as amended, Hayashi. State highways.

Existing law authorizes a city or county in which a planned transportation facility was to be located on State Highway Route 238 in Alameda County to develop and file with the California Transportation Commission a local alternative transportation *improvement* program that addresses transportation problems and opportunities, and provides for the use of revenues from the sales of excess properties acquired for the planned state facility in order to fund the local alternative *transportation improvement* program, but limits the use of revenues from excess property sales to state highway purposes. Existing law provides that the commission may not approve a local alternative *transportation improvement* program under these provisions after July 1, 2010. Similar provisions apply to State Highway Route 84 in the Cities of Fremont and Union City, except that the use of revenues from excess property sales in that corridor are limited to

state highway purposes or projects in the local voter-approved transportation sales tax measure.

This bill would modify the restriction limiting use of revenues from excess property sales to state highway purposes applicable to State Highway Route 238 by authorizing those revenues to be used for any highway purpose. This bill would require revenues from excess property sales for State Highway Route 238 and State Highway Route 84 to be deposited into separate accounts in the Special Deposit Fund, a continuously appropriated fund, to be available for expenditure by local agencies for purposes of an approved local alternative transportation *improvement* program for the applicable corridor route. The bill would thereby make an appropriation.

This bill would also authorize local agencies to advance projects in the local alternative transportation improvement program with local funds, to be repaid when revenues from excess property sales become available, as specified. This bill would require the California Transportation Commission to adopt guidelines in that regard.

Existing law provides for state highways to be constructed, as determined by the California Transportation Commission, on routes authorized by law. Existing law provides for relinquishment by the commission of state highways to local agencies under certain conditions.

This bill would authorize the commission to relinquish portions of State Highway Routes 92, 185, and 238 in the City of Hayward to that city subject to various conditions.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14528.5 of the Government Code is
2 amended to read:
3 14528.5. (a) To resolve local transportation problems resulting
4 from the infeasibility of planned state transportation facilities on
5 State Highway Route 238 in the City of Hayward and Alameda
6 County, the city or county in which the planned facilities were to
7 be located, acting jointly with the transportation planning agency
8 having jurisdiction over the city or county, may develop and file
9 with the commission a local alternative transportation improvement
10 program that addresses transportation problems and opportunities
11 in the county which were to be served by the planned facilities.

1 Priorities for funding in the local alternative program shall go to
2 projects in the local voter-approved transportation sales tax
3 measure.

4 (b) The commission shall have the final authority regarding the
5 content and approval of the local alternative transportation
6 improvement program. The commission shall not approve any
7 local alternative transportation improvement program submitted
8 under this section after July 1, 2010.

9 (c) All proceeds from the sale of the excess properties, less any
10 reimbursements due to the federal government and all costs
11 incurred in the sale of those excess properties, shall be allocated
12 by the commission to fund the approved local alternative
13 transportation improvement program and shall not be subject to
14 Sections 188 and 188.8 of the Streets and Highways Code. The
15 proceeds shall be used only for highway purposes.

16 (d) (1) The department shall maintain a separate account in the
17 state's Special Deposit Fund for the deposit of funds derived from
18 the sale of excess properties pursuant to subdivision (c). All
19 proceeds received by the department from the sale of those excess
20 properties that are available pursuant to subdivision (c) for the
21 local alternative transportation improvement program, less
22 reimbursement for costs incurred by the department for fund
23 administration, shall be deposited in the account, along with all
24 interest earnings generated by funds in the account.

25 (2) Funds in the account shall be available for expenditure by
26 local agencies for projects designated in the local alternative
27 transportation improvement program approved by the commission
28 pursuant to this section.

29 (e) This section does not apply to those highways that are in the
30 National System of Interstate and Defense Highways.

31 (f) This section applies only to State Highway Route 238.

32 (g) Section 14528.8 does not apply to projects undertaken
33 pursuant to this section.

34 (h) *A local jurisdiction may, with the concurrence of the*
35 *appropriate transportation planning agency, the commission, and*
36 *the department, advance a project included in the local alternative*
37 *transportation improvement program prior to the availability of*
38 *sufficient funds from the sale of excess properties through the use*
39 *of its own funds. A project advanced in this manner shall be*
40 *deliverable by the state, or by the local jurisdiction pursuant to*

1 agreement, when proposed by the local jurisdiction. Advancement
2 of a project or projects shall not change the priority for funding
3 and delivery of all projects within the approved local alternative
4 transportation improvement program.

5 (i) A local agency may enter into an agreement with the
6 appropriate transportation planning agency, the department, and
7 the commission to use its own funds to develop, purchase
8 right-of-way for, and construct a transportation project within its
9 jurisdiction if the project is one that is included in the adopted
10 local alternative transportation improvement program and is
11 funded by the account established in the Special Deposit Fund
12 pursuant to subdivision (d), and meets all of the following
13 requirements:

14 (1) Pursuant to the agreement, and from funds allocated by the
15 commission for the project when scheduled in the local alternative
16 transportation improvement program, the department shall
17 reimburse the local agency for the actual cost of constructing the
18 project, including the acquisition of right-of-way. Interest or other
19 debt service costs incurred by local agencies to finance
20 right-of-way acquisition or construction for the project are not
21 reimbursable. Reimbursement made to a local agency pursuant
22 to this subdivision shall be made from the account established in
23 the Special Deposit Fund.

24 (2) The amount actually reimbursed to the local agency under
25 paragraph (1) shall be the amount expended by the local agency
26 for right-of-way and construction, escalated by the actual
27 construction cost index between the time of construction award
28 and the time of commission allocation of reimbursement funding,
29 but not to exceed the escalated amount programmed for
30 expenditure for the project in the local alternative transportation
31 improvement program in the originally scheduled year. If the
32 expenditure of local funds does not result in the completion of an
33 operable segment of a transportation project, reimbursement shall
34 be limited to the actual amount expended by the local agency for
35 right-of-way or partial construction, with no escalation factor.

36 (3) Pursuant to the agreement, and from funds allocated by the
37 commission for the project when it was scheduled in the local
38 alternative transportation improvement program, the department
39 shall reimburse the local agency for the actual cost of developing
40 the project with local funds pursuant to this subdivision.

1 *Reimbursement of project development costs shall not exceed 20*
2 *percent of estimated construction costs. In no case shall this*
3 *reimbursement exceed any lesser amount mutually agreed to by*
4 *the department, commission, and local agency.*

5 *(4) Reimbursements made to local agencies pursuant to this*
6 *subdivision for expenditures of local voter approved sales and use*
7 *tax revenues shall be used for the same purposes for which the*
8 *imposition of the sales and use tax is authorized.*

9 *(5) The commission, in consultation with the department and*
10 *local transportation officials, shall develop and adopt guidelines*
11 *to implement this subdivision.*

12 *(j) At the same time of its approval of the local alternative*
13 *transportation improvement program, the commission, in*
14 *consultation with the department and representatives from regional*
15 *agencies and local agencies, shall also adopt guidelines to allocate*
16 *local alternative transportation improvement program funds for*
17 *expenditure. The guidelines shall include, but not be limited to,*
18 *criteria for project applications, estimation of costs, assessment*
19 *of capability to complete the project, allocation of funds to project*
20 *phases, timely expenditure of funds, management of changes to*
21 *cost, scope, and schedules, assessment of progress in implementing*
22 *projects, and audit requirements.*

23 SEC. 2. Section 14528.55 of the Government Code is amended
24 to read:

25 14528.55. (a) To resolve local transportation problems
26 resulting from the infeasibility of planned state transportation
27 facilities on State Highway Route 84 in the Cities of Fremont and
28 Union City, the cities or the county in which the planned facilities
29 were to be located, acting jointly with the transportation planning
30 agency having jurisdiction over the cities or county, may develop
31 and file with the commission a local alternative transportation
32 improvement program that addresses transportation problems and
33 opportunities in the county that were to be served by the planned
34 facilities. Priorities for funding in the local alternative program
35 shall go to projects in the local voter-approved transportation sales
36 tax measure.

37 (b) The commission shall have the final authority regarding the
38 content and approval of the local alternative transportation
39 improvement program. The commission shall not approve any

1 local alternative transportation improvement program submitted
2 under this section after July 1, 2010.

3 (c) All proceeds from the sale of the excess properties, less any
4 reimbursements due to the federal government and all costs
5 incurred in the sale of those excess properties, shall be allocated
6 by the commission to fund the approved local alternative
7 transportation improvement program and shall not be subject to
8 Sections 188 and 188.8 of the Streets and Highways Code. The
9 proceeds shall be used only for state highway purposes or for
10 projects in the local alternative transportation improvement
11 program that are also in the local voter-approved transportation
12 sales tax measure, subject to approval by the department.

13 (d) (1) The department shall maintain a separate account in the
14 state's Special Deposit Fund for the deposit of funds derived from
15 the sale of excess properties pursuant to subdivision (c). All
16 proceeds received by the department from the sale of those excess
17 properties that are available pursuant to subdivision (c) for the
18 local alternative transportation improvement program, less
19 reimbursement for costs incurred by the department for fund
20 administration, shall be deposited in the account, along with all
21 interest earnings generated by funds in the account.

22 (2) Funds in the account shall be available for expenditure by
23 local agencies for projects designated in the local alternative
24 transportation improvement program approved by the commission
25 pursuant to this section.

26 (e) This section does not apply to those highways that are in the
27 National System of Interstate and Defense Highways.

28 (f) This section only applies to State Highway Route 84.

29 (g) Section 14528.8 does not apply to projects undertaken
30 pursuant to this section.

31 (h) *A local jurisdiction may, with the concurrence of the*
32 *appropriate transportation planning agency, the commission, and*
33 *the department, advance a project included in the local alternative*
34 *transportation improvement program prior to the availability of*
35 *sufficient funds from the sale of excess properties through the use*
36 *of its own funds. A project advanced in this manner shall be*
37 *deliverable by the state, or by the local jurisdiction pursuant to*
38 *agreement, when proposed by the local jurisdiction. Advancement*
39 *of a project or projects shall not change the priority for funding*

1 *and delivery of all projects within the approved local alternative*
2 *transportation improvement program.*

3 *(i) A local agency may enter into an agreement with the*
4 *appropriate transportation planning agency, the department, and*
5 *the commission to use its own funds to develop, purchase*
6 *right-of-way for, and construct a transportation project within its*
7 *jurisdiction if the project is one that is included in the adopted*
8 *local alternative transportation improvement program and is*
9 *funded by the account established in the Special Deposit Fund*
10 *pursuant to subdivision (d), and meets all of the following*
11 *requirements:*

12 *(1) Pursuant to the agreement, and from funds allocated by the*
13 *commission for the project when scheduled in the local alternative*
14 *transportation improvement program the department shall*
15 *reimburse the local agency for the actual cost of constructing the*
16 *project, including the acquisition of right-of-way. Interest or other*
17 *debt service costs incurred by local agencies to finance*
18 *right-of-way acquisition or construction for the project are not*
19 *reimbursable. Reimbursement made to a local agency pursuant*
20 *to this subdivision shall be made from the account established in*
21 *the Special Deposit Fund.*

22 *(2) The amount actually reimbursed to the local agency under*
23 *paragraph (1) shall be the amount expended by the local agency*
24 *for right-of-way and construction, escalated by the actual*
25 *construction cost index between the time of construction award*
26 *and the time of commission allocation of reimbursement funding,*
27 *but not to exceed the escalated amount programmed for*
28 *expenditure for the project in the local alternative transportation*
29 *improvement program in the originally scheduled year. If the*
30 *expenditure of local funds does not result in the completion of an*
31 *operable segment of a transportation project, reimbursement shall*
32 *be limited to the actual amount expended by the local agency for*
33 *right-of-way or partial construction, with no escalation factor.*

34 *(3) Pursuant to the agreement, and from funds allocated by the*
35 *commission for the project when it was scheduled in the local*
36 *alternative transportation improvement program, the department*
37 *shall reimburse the local agency for the actual cost of developing*
38 *the project with local funds pursuant to this subdivision.*
39 *Reimbursement of project development costs shall not exceed 20*
40 *percent of estimated construction costs. In no case shall this*

1 reimbursement exceed any lesser amount mutually agreed to by
2 the department, commission, and local agency.

3 (4) Reimbursements made to local agencies pursuant to this
4 subdivision for expenditures of local voter approved sales and use
5 tax revenues shall be used for the same purposes for which the
6 imposition of the sales and use tax is authorized.

7 (5) The commission, in consultation with the department and
8 local transportation officials, shall develop and adopt guidelines
9 to implement this subdivision.

10 (j) At the same time of its approval of the local alterative
11 transportation improvement program, the commission, in
12 consultation with the department and representatives from regional
13 agencies and local agencies, shall also adopt guidelines to allocate
14 local alterative transportation improvement program funds for
15 expenditure. The guidelines shall include, but not be limited to,
16 criteria for project applications, estimation of costs, assessment
17 of capability to complete the project, allocation of funds to project
18 phases, timely expenditure of funds, management of changes to
19 cost, scope, and schedules, assessment of progress in implementing
20 projects, and audit requirements.

21 SEC. 3. Section 392 of the Streets and Highways Code is
22 amended to read:

23 392. (a) Route 92 is from:

24 (1) Route 1 near Half Moon Bay to Route 280.

25 (2) Route 280 to Route 580 near Castro Valley and Hayward.

26 (b) (1) The commission may relinquish to the City of Hayward
27 the portion of Route 92 located within the city limits of that city,
28 upon terms and conditions the commission finds to be in the best
29 interests of the state, if the department and the city enter into an
30 agreement providing for that relinquishment.

31 (2) A relinquishment under this subdivision shall become
32 effective immediately after the county recorder's recordation of
33 the relinquishment resolution containing the commission's approval
34 of the terms and conditions of the relinquishment.

35 (3) On and after the effective date of the relinquishment, both
36 of the following shall occur:

37 (A) The portion of Route 92 relinquished shall cease to be a
38 state highway.

39 (B) The portion of Route 92 relinquished shall be ineligible for
40 future adoption under Section 81.

1 (4) For relinquished portions of Route 92, the City of Hayward
2 shall maintain signs within its jurisdiction directing motorists to
3 the continuation of Route 92 or to the state highway system, as
4 applicable.

5 SEC. 4. Section 485 of the Streets and Highways Code is
6 amended to read:

7 485. (a) Route 185 is from Route 92 in Hayward to Route 77
8 in Oakland.

9 (b) (1) The commission may relinquish to the City of Hayward
10 the portion of Route 185 located within the city limits of that city,
11 upon terms and conditions the commission finds to be in the best
12 interests of the state, if the department and the city enter into an
13 agreement providing for that relinquishment.

14 (2) A relinquishment under this subdivision shall become
15 effective immediately after the county recorder's recordation of
16 the relinquishment resolution containing the commission's approval
17 of the terms and conditions of the relinquishment.

18 (3) On and after the effective date of the relinquishment, both
19 of the following shall occur:

20 (A) The portion of Route 185 relinquished shall cease to be a
21 state highway.

22 (B) The portion of Route 185 relinquished shall be ineligible
23 for future adoption under Section 81.

24 (4) For relinquished portions of Route 185, the City of Hayward
25 shall maintain signs within its jurisdiction directing motorists to
26 the continuation of Route 185 or to the state highway system, as
27 applicable.

28 SEC. 5. Section 538 of the Streets and Highways Code is
29 amended to read:

30 538. (a) Route 238 is from Route 680 in Fremont to Route 61
31 near San Lorenzo via Hayward.

32 (b) (1) The commission may relinquish to the City of Hayward
33 the portion of Route 238 located within the city limits of that city,
34 upon terms and conditions the commission finds to be in the best
35 interests of the state, if the department and the city enter into an
36 agreement providing for that relinquishment.

37 (2) A relinquishment under this subdivision shall become
38 effective immediately after the county recorder's recordation of
39 the relinquishment resolution containing the commission's approval
40 of the terms and conditions of the relinquishment.

- 1 (3) On and after the effective date of the relinquishment, both
2 of the following shall occur:
- 3 (A) The portion of Route 238 relinquished shall cease to be a
4 state highway.
- 5 (B) The portion of Route 238 relinquished shall be ineligible
6 for future adoption under Section 81.
- 7 (4) For relinquished portions of Route 238, the City of Hayward
8 shall maintain signs within its jurisdiction directing motorists to
9 the continuation of Route 238 or to the state highway system, as
10 applicable.

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